

BALABAN & SPIELBERGER, LLP

11999 San Vicente Blvd., Suite 345

Los Angeles, CA 90049

Tel: (424) 832-7677

Fax: (424) 832-7702

Daniel K. Balaban, SBN 243652

Andrew J. Spielberger, SBN 120231

Vanessa L. Loftus-Brewer, SBN 265213

Kahren Harutyunyan, SBN 298449

KABATECK BROWN KELLNER LLP

Engine Company No. 28 Building

644 South Figueroa Street,

Los Angeles, CA 90017

Tel: (213) 217-5000

Fax: (213) 217-5010

Brian S. Kabateck, SBN 152054

Anastasia K. Mazzella, SBN 245201

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

HEATHER POOLE and PLAINTIFFS listed on
Exhibit 1 attached hereto,

Plaintiffs,

vs.

TWIN HILL ACQUISITION COMPANY, INC.;
a California corporation; TAILORED BRANDS,
INC., a corporation with principal corporate and
executive offices in California AND DOES 1
THROUGH 100,

Defendant(s).

Case No. 3:18-cv-2758-JCS

[Related actions: *Agnello et al*, 3:18-cv-2756
(Lead); *Macknochie et al.*, 3:18-cv-2761; *Hughes
et al.*, 3:18-cv-2762]

THIRD AMENDED COMPLAINT

1. STRICT PRODUCTS LIABILITY
2. NEGLIGENCE PRODUCTS LIABILITY
3. NEGLIGENCE

JURY TRIAL DEMANDED

COMES NOW, Plaintiffs, HEATHER POOLE, MARIE VALENZUELA, TRACEY
SILVER-CHARAN, PATTI WILSON, ANTOINETTE PRICE, TYUANA GREEN, PATRICIA

STACK, BETH MILES, MARGUERITE D'AMICO, ELIZABETH ELLISON, BONNIE DUBBS,
 MARGARET COOK, JOANNE CHINO-MALONEY, DIANA BENTON, ROBIN ADAMS,
 VIRGINIA SUMMERS, TROY LIM, CATHLEEN RUSK DELRIO, SHIRLEY MOK, ELIZABETH
 HENRY, JAYEONG YOO, LUCINDA YAPP, ALLISON WOOD, JONNA WILLIS, JUAN VELEZ,
 KAREN VARLEY, AMALIA VALLE REBAZA, CAROL TARANTO, BYRON SUTHERLAND,
 PETER SNEDDON, ISABELLE SMITH, NANCY SCHNEIDER, VICKI SCHALLER, KLEVIS
 SATA, BRENDA SABBATINO, DONNA ROGERS, MARIA RODRIGUEZ, KAZIA
 ROBICHAUD, JOAN QUILICO, MEGAN POSET, LINDA PENBERTHY, SUZANNE PATTILLO,
 LINDA OSTROWSKI, ALICIA OLSON, LAURIE NUNEZ, KIM NIEPOKY, LAURIE
 NIEDOMYS, JULIE MOSTELLER, CHRISTOPHER MICHAEL, LISA MENDEZ, MARTHA
 MASLA, REBECCA LESIEUTRE, TRACY KOZO, BENITA KILCREASE, ROSLYN KIRTON,
 KATHLEEN KELLY, CLAUDIA JACKSON, CASEY HURST, NANCY HUENERGARDT,
 STACEY HENRY, TERRI HEGWALD, SANDRA HAYEN, WHITNEY HEDMAN, MARYANNE
 HALAMA, LORRAINE GROSSI, JACQUELINE FRANK, CAROL FREEMAN, NANCY
 FLEMER, LISSETTE FIGUEROA, RITA DIZ, CAMILLE DAYEKH, TERRI CRIBBS, LORI
 COOCEN, JANET CONROY, CANDY CAHILL, HOLLY BOOKER, GLORIA BARNETT,
 RHONDA MCELRATH, MICHAEL ZEITZ, DEBRA JONES, MEGAN CARAWAY, AMANDA
 WHITEHOUSE-DUCKETT, SANDRA BURNELL, LIRON SHENKAR, MELISSA
 McCULLOUGH, MARILYN GONZALEZ, MARY BARNES, KRISTEN WRIGHT, GRETCHEN
 STUDIER, SARA BEITTER, APRIL TESTER, FRANCINE WASKOWICZ, ALLISON
 BOLLMANN, CATHERINE ULRICH, NANCY SIMPSON, DEBORAH MARCANTONIO,
 JAZTON KENNEDY, SHAWN DAVIS, ("Plaintiffs") for causes of action against defendants, TWIN
 HILL ACQUISITION COMPANY, INC. (hereinafter "TWIN HILL"); TAILORED BRANDS, INC.
 (hereinafter "TAILORED BRANDS"); and DOES 1 through 100, inclusive, and each of them,
 complains and alleges as follows:

GENERAL ALLEGATIONS

1. There are 19 of the aforementioned Plaintiffs who are current residents of the State of California.

1 2. There are 79 of the aforementioned Plaintiffs' who currently are, residents of states or
2 nations other than the State of California.

3 3. At all times mentioned herein, defendant TWIN HILL ACQUISITION COMPANY,
4 INC. (hereinafter "TWIN HILL") was, and is a corporate entity incorporated in the State of California
5 and doing business at 6100 Stevenson Boulevard, Fremont, California 94538-2490. TWIN HILL is a
6 wholly owned subsidiary of Defendant TAILORED BRANDS, INC.

7 4. At all times mentioned herein, defendant TAILORED BRANDS, INC. (hereinafter
8 "TAILORED BRANDS") is a corporation with principal corporate and executive offices in
9 California.

10 5. The true names and/or capacities, whether individual, corporate, associate or otherwise
11 of defendants DOES 1 through 100, inclusive, and each of them, are unknown to Plaintiffs, who
12 therefore sue said defendants by such fictitious names. Plaintiffs are informed and believe, and
13 thereupon allege, that each defendant fictitiously named herein as a DOE was legally responsible,
14 negligently or in some other actionable manner, for the events and happenings hereinafter referred to
15 and proximately thereby caused the injuries and damages to Plaintiffs as hereinafter alleged. Plaintiffs
16 will ask leave of court to amend the complaint to insert the true names and/or capacities of such
17 fictitiously named defendants when the same have been ascertained.

18 6. Plaintiffs are informed and believe, and thereupon allege, that at all times mentioned
19 herein, defendants, and each of them, including DOES 1 through 100, inclusive, and each of them,
20 were the agents, servants, employees and/or joint venturers of their co-defendants and were, as such,
21 acting within the course, scope and authority of said agency, employment and/or venture and that each
22 and every defendant, as aforesaid, when acting as a principal, was negligent in the selection and hiring
23 of each and every other defendant as an agent, employee and/or joint venturer.

24 7. At all times mentioned herein, Plaintiffs are and were actual employees of American
25 Airlines Inc. or of commuter airline companies that had working relationships with American
26 Airlines, Inc. (hereinafter collectively referred to as "American Airlines employees").

27 8. In or about September 2016, American Airlines Inc. implemented a change of uniforms
28 for its worldwide workforce, including but not limited to flight attendants, pilots, ground crews,

1 maintenance crews and service agents. These uniforms (hereinafter “UNIFORMS”) were and are
2 manufactured and/or distributed by Defendant TWIN HILL, and/or TAILORED BRANDS and DOES
3 1-100. On information and belief, TWIN HILL, TAILORED BRANDS, and DOES 1-100 shipped
4 approximately 1.4 million garments and accessories to more than 65,000 American Airlines
5 employees worldwide. These UNIFORMS were received by various American Airlines employees at
6 various times commencing mainly in or around September 2016 and thereafter.

7 9. As more fully alleged below, these UNIFORMS, manufactured and/or distributed by
8 Defendant TWIN HILL and/or TAILORED BRANDS, AND DOES 100, are dangerously defective as
9 they created and create an unreasonable risk of physical harm to those who wear them and to those
10 who are exposed to them.

11 10. Since the introduction of these UNIFORMS into the workforce, people wearing these
12 UNIFORMS and/or or those exposed to these UNIFORMS have experienced a plethora of health
13 problems, including, but not limited to: dermatological injury, respiratory injury, neurologic injury
14 and allergenic/immunological injuries including, but not limited to, skin rashes, allergenic skin
15 reactions, ear, nose and throat irritation and inflammation, nerve injuries, allergenic and
16 immunological hypersensitivity, auto-immune dysfunction and injuries and numerous other symptoms
17 involving the dermatological, respiratory, neurological and immunological systems.

18 11. The UNIFORMS have been tested by entities hired by TWIN HILL and by American
19 Airlines and the test results show the presence of synthetic materials which contain, but are not limited
20 to, at least the following: formaldehyde, pentachlorophenol, monochlorophenols, tetrachlorophenols,
21 trichlorophenols, toluene, cobalt, cadmium, captafol, chromium, copper, nickel, antimony, benzyl
22 benzoate, hexyl cinnamic aldehyde, benzaldehyde.

23 12. Shortly after the introduction of the UNIFORMS, thousands of complaints from flight
24 attendants flooded into their unions, the Association of Flight Attendants and the Association of
25 Professional Flight Attendants. The volume was so great that both organizations set up special task
26 forces to address the problems created by the introduction of the UNIFORMS into the American
27 Airlines flight attendant work force.

1 13. The adverse physical reactions were so immediate that American Airlines
2 acknowledged the health concerns expressed by its flight attendants and established a call center to
3 review health concerns and offered replacement garments to its employees.

4 14. The aforementioned chemicals can cause injury to human beings either alone or in
5 combination with each other. Attached as **EXHIBIT 1** is a chart that identifies each Plaintiff along
6 with his or her illnesses and symptoms and the specific chemicals and/or combination of chemicals
7 that were substantial factors in bringing about, prolonging, and/or aggravating Plaintiffs' symptoms
8 and illnesses.

9 15. Plaintiffs are informed and believe, and thereupon allege, that the UNIFORMS were
10 designed, manufactured, and distributed by TWIN HILL TWIN HILL, and/or TAILORED BRANDS,
11 and DOES 1-100.

12 16. All Plaintiffs mentioned herein have experienced adverse health consequences caused
13 by wearing or being exposed to the mandated UNIFORMS, which were manufactured, distributed and
14 provided by TWIN HILL, and/or TAILORED BRANDS, and DOES 1-100 to Plaintiffs.

15 17. TWIN HILL and/or TAILORED BRANDS, and DOES 1-100 did cause adverse health
16 conditions to Plaintiffs by providing UNIFORMS to the Plaintiffs that were negligently manufactured
17 so as to cause adverse health consequences and did cause such adverse health consequences.

18 18. Plaintiffs are further informed and believe, and thereupon allege, that the Defendants
19 did not have adequate safety mechanisms in the manufacturing and distribution of the UNIFORMS so
20 as to reasonably ensure the safety of Plaintiffs. Plaintiffs are further informed and believe, and
21 thereupon allege, that the defective manufacturing process caused the aforementioned chemicals to be
22 present in the UNIFORMS at a level that was harmful to Plaintiffs and that the UNIFORMS were
23 materially different and deviated from TWIN HILL and/or TAILORED BRANDS's intended design
24 which ultimately caused harm to Plaintiffs.

25 19. In the alternative, Plaintiffs allege that the UNIFORMS were defectively designed such
26 that the UNIFORMS violated the expectations of an ordinary consumer. Ordinary consumers do not
27 expect to become ill from wearing their mandated work attire or any piece of clothing for that matter.
28 Nor was the danger of the UNIFORMS readily apparent to an ordinary consumer as the presence of

1 these chemicals is outside the common experience of flight attendants and other users of the
 2 UNIFORMS. Moreover, to the extent the aforementioned chemicals were intended by TWIN HILL
 3 and/or TAILORED BRANDS to be present in the UNIFORMS, the risk that those chemicals would
 4 cause harm to Plaintiffs or other bystanders far outweighed the benefits of their use.

5 20. Plaintiffs are further informed and believe, and thereupon allege, that the Defendants
 6 did not provide adequate warnings to Plaintiffs or other consumers regarding the danger posed by the
 7 UNIFORMS. Defendants did not provide any warning that the UNIFORMS could cause a plethora of
 8 health problems, including, but not limited to: dermatological injury, respiratory injury, neurologic
 9 injury and allergenic/immunological injuries including, but not limited to, skin rashes, allergenic skin
 10 reactions, ear, nose and throat irritation and inflammation, nerve injuries, allergenic and
 11 immunological hypersensitivity, auto-immune dysfunction and injuries and numerous other symptoms
 12 involving the dermatological, respiratory, neurological and immunological systems. These dangers
 13 are substantial and are not readily recognizable by the ordinary consumer as the chemicals are not
 14 identifiable without laboratory testing that is outside the experience of the ordinary consumer.

15 21. Plaintiffs are further informed and believe, and thereupon allege, that the Defendants
 16 knew of the danger that the UNIFORMS posed to Plaintiffs and innocent bystanders, but nevertheless
 17 failed to provide an adequate warning of that danger.

18 22. As a result of the Defendants' conduct, Plaintiffs suffered severe and permanent
 19 injuries while wearing and/or being exposed to the UNIFORMS.

20 **JURISDICTION CONTESTED - PLAINTIFFS' MOTION TO REMAND**

21 23. This action is one of four separate lawsuits originally filed against the same Defendants
 22 in the Superior Court of California, County of Alameda: (1) *Melodie Agnello v. Twin Hill* [State Case
 23 Number RG17880635] (originally filed on October 30, 2017; First Amended Complaint filed April
 24 10, 2018; Second Amended Complaint filed April 27, 2018); and (2) *Heather Poole v. Twin Hill*
 25 [State Case Number RG17876798] (originally filed September 27, 2018; First Amended Complaint
 26 filed April 10, 2018; Second Amended Complaint filed April 27, 2018); and (3) *Alexandra Hughes v.*
 27 *Twin Hill* [State Case Number RG18902727] (originally filed April 27, 2018); and (4) *Rosemary*
 28 *Mackonochie v. Twin Hill* [State Case Number RG18902720] (originally filed April 27, 2018).

24. Each lawsuit names fewer than 100 plaintiffs.

25. On May 10, 2018, Defendants removed the four actions to federal court, invoking the Class Action Fairness Act's mass action provision (28 U.S.C. § 1332(d)).

26. On June 10, 2018, Plaintiffs in the four actions filed Motions to Remand, arguing the cases were improperly removed and not within the jurisdiction of the federal court.

27. On July 11, 2018, while Plaintiffs Motions to Remand were pending, Defendants informed Plaintiffs they intended to file motions to dismiss under Federal Rules of Procedure, Rule 12(b)(6), and provided the grounds for said motions.

28. On July 12, 2018, Plaintiffs agreed to amend the four complaints solely to avoid a motion to dismiss while their Motions to Remand were pending.

29. On July 23, 2018, the parties filed a Stipulation allowing Plaintiffs to file amended complaints under Federal Rules of Civil Procedure, Rule 15(a)(2).

30. By filing this amended pleading, Plaintiffs are in no way waiving their right to remand or engaging in any affirmative conduct or unequivocal assent that would render it offensive to fundamental principles of fairness to remand.

31. At the time of this filing, the hearing on Plaintiffs' Motions to Remand are on the federal court's calendar for August 31, 2018.

32. Plaintiffs continue to contest federal court jurisdiction despite filing this amended pleading.

FIRST CAUSE OF ACTION

STRICT PRODUCTS LIABILITY

(Against All Defendants; and DOES 1 through 100 inclusive)

33. Plaintiffs allege as though fully set forth at length, and incorporate herein by reference, all of the allegations and statements contained in paragraphs 1 through 32, inclusive, of the General Allegations, above.

34. Plaintiffs are informed and believe, and thereupon allege, that at all times herein mentioned, defendants TWIN HILL and/or TAILORED BRANDS; and DOES 1 through 100, inclusive and each of them, by and through their officers, directors, employees and/or managing

1 agents, were the manufacturers, fabricators, designers, assemblers, testers, distributors, sellers,
2 inspectors, marketers, warrantors, lessors, renters, suppliers, modifiers, providers and/or advertisers of
3 the UNIFORMS, which contained design and/or manufacturing defects, and every component part
4 thereof, and which was capable of causing, and in fact, did cause personal injuries to the users and
5 consumers and bystanders thereof, including Plaintiffs, while being used in a manner reasonably
6 foreseeable, thereby rendering the UNIFORMS unsafe and dangerous for use by the consumer, user
7 and/or bystander. Defendants TWIN HILL and/or TAILORED BRANDS; and DOES 1 through 100,
8 and each of them, by and through their officers, directors, employees and/or managing agents, also
9 failed to provide adequate warnings to consumers and users of the UNIFORMS concerning the
10 significant dangers associated with the UNIFORMS, or to instruct consumers and users regarding the
11 use and dangers of the UNIFORMS, and warned or failed to warn, and instructed or failed to instruct,
12 anticipated users of the UNIFORMS, concerning use and dangerousness of the UNIFORMS.

13 35. Plaintiffs are informed and believe, and thereupon allege, that at all times mentioned
14 herein, the UNIFORMS were defective when placed on the market by defendants TWIN HILL and/or
15 TAILORED BRANDS; and DOES 1 through 100, and each of them, and was of such a nature that the
16 defects would not be discovered in the normal course of inspection and operation and use by users
17 thereof. At all times relevant herein, the UNIFORMS were in substantially the same condition as they
18 were when they were originally placed into the stream of commerce by defendants TWIN HILL and
19 TAILORED BRANDS; and DOES 1 through 100, inclusive and each of them.

20 36. Defendants TWIN HILL and TAILORED BRANDS; and DOES 1 through 100,
21 inclusive, and each of them, by and through their officers, directors, employees and/or managing
22 agents, designed, tested, manufactured, and distributed garments and accessories, including the
23 UNIFORMS, to their retailers and customers. The UNIFORMS, contained design and manufacturing
24 defects, including design characteristics and materials which increased the likelihood of a serious
25 injury or death from the chemicals found in the UNIFORMS when the UNIFORMS were being used
26 in a reasonably foreseeable manner.

27 37. Prior to the distribution of the UNIFORMS to the American Airlines employees,
28 including but not limited to plaintiffs, the officers, directors, employees and/or managing agents of

1 defendants TWIN HILL and TAILORED BRANDS; and DOES 1 through 100, inclusive and each of
2 them, were aware of the danger of the UNIFORMS and the severity of the risk of injury or death to
3 consumers, bystanders and users of the UNIFORMS.

4 38. Specifically, prior to the distribution of the UNIFORMS to the American Airlines
5 employees, including but not limited to the plaintiffs, the officers, directors, employees and/or
6 managing agents of defendants TWIN HILL and TAILORED BRANDS; and DOES 1 through 100,
7 inclusive and each of them, were aware that the UNIFORMS at issue herein, were dangerous in their
8 design and manufacture, and that these UNIFORMS were dangerous when used in a reasonably
9 foreseeable fashion, and that the UNIFORMS lacked proper inspections and guard mechanisms to
10 ensure the materials utilized in the production of the UNIFORMS were safe for Plaintiffs. The
11 aforementioned UNIFORMS were designed and manufactured in such a way that an unreasonable risk
12 of injury was posed by the presence of chemicals in the UNIFORMS when used in a reasonable
13 foreseeable manner.

14 39. The production of the UNIFORMS as well as the UNIFORM distribution lacked such
15 reasonable protective measures to prevent injury from dangerous chemicals bonding to the
16 UNIFORMS, despite the fact that TWIN HILL and TAILORED BRANDS; and DOES 1 through
17 100, inclusive, and each of them, were aware of the importance of preventing injury from potentially
18 dangerous chemicals used in the production process and embedded in the UNIFORMS, were aware of
19 the importance of the proper safety mechanisms, such as inspections and proper manufacturing
20 oversight, and despite the fact that it would have been practical and relatively inexpensive for
21 defendants TAILORED BRANDS and TWIN HILL; and DOES 1 through 100, inclusive, and each of
22 them, to incorporate alternative designs and/or chemicals into UNIFORM production, including
23 additional and appropriate safety mechanisms and inspections that would have reasonably protected
24 consumers and users of the UNIFORMS from unreasonable risk of injury.

25 40. Prior to the distribution of the UNIFORMS, the officers, directors, employees and/or
26 managing agents of defendants TWIN HILL and TAILORED BRANDS; and DOES 1 through 100,
27 inclusive and each of them, knew, or should have known, that the UNIFORMS, were substandard and
28 dangerous and would not provide reasonable safety to consumers during foreseeable use, causing the

1 users or bystanders to suffer serious injury during foreseeable use. Moreover, TWIN HILL and
2 TAILORED BRANDS officers, directors, employees and/or managing agents, knew or should have
3 known, that the UNIFORMS, were extremely dangerous and defective with the likely result of serious
4 bodily injury to the users and consumers of such UNIFORMS. The officers, directors, employees
5 and/or managing agents of defendants TAILORED BRANDS and TWIN HILL; and DOES 1 through
6 100, inclusive and each of them, knew, prior to the distribution of the UNIFORMS to the American
7 Airlines employees including but not limited to Plaintiffs and even prior to the manufacture of the
8 UNIFORMS, of the availability of safer, affordable alternative designs and manufacturing processes
9 for the production, inspection, and distribution of the UNIFORMS, which would have reduced or
10 eliminated the risk of severe injuries to its consumers, users and bystanders.

11 41. Despite this knowledge, defendants TWIN HILL and TAILORED BRANDS; and
12 DOES 1 through 100, inclusive and each of them, by and through their officers, directors, employees
13 and/or managing agents, failed to recall and/or replace the UNIFORMS, issue safety bulletins to the
14 public, advise or warn purchasers or potential users, such as Plaintiffs, by providing warnings of the
15 severe risk of injury from use of the UNIFORMS. Although the officers, directors, employees and/or
16 managing agents of defendants TWIN HILL and TAILORED BRANDS; and DOES 1 through 100,
17 inclusive and each of them, were aware of the need to recall and/or replace these garments, including
18 the UNIFORM, issue public safety bulletins, and/or provide adequate warnings and inspections,
19 defendants TWIN HILL and TAILORED BRANDS; and DOES 1 through 100, through the decisions
20 of their officers, directors, employees and/or managing agents, acted in conscious disregard of the
21 rights and safety of consumers, users and/or bystanders, by failing to utilize available safer alternative
22 materials, designs, adequately warn of the hazards, and/or replace or recall these UNIFORMS, prior to
23 the distribution of the UNIFORMS to American Airlines employees including but not limited to
24 Plaintiffs.

25 42. At all times mentioned herein, the officers, directors, and/or managing agents of
26 defendants TWIN HILL and TAILORED BRANDS; and DOES 1 through 100, inclusive and each of
27 them, authorized and/or ratified the conduct of their employees, who knew or should have known of
28 the growing number of serious injuries to consumers, users, and bystanders resulting from the

1 defective condition of the UNIFORMS, designed and distributed by defendants, and the need for an
2 alternative design, alternative materials, lack of injurious chemicals, and use of safety devices,
3 inspections, and different chemical process, and additional warnings.

4 43. Plaintiffs are informed and believe, and thereupon allege, that on or about the time of
5 the use of the UNIFORMS, the UNIFORMS were being used in a reasonably foreseeable manner. As
6 a direct and proximate result of the defective condition of the UNIFORMS, and the conduct of
7 defendants TWIN HILL and TAILORED BRANDS; and DOES 1 through 100, inclusive and each of
8 them, the UNIFORMS seriously injured Plaintiffs while wearing or being exposed to the UNIFORMS
9 in a reasonably foreseeable manner, causing injury to the Plaintiffs, as set forth below.

10 44. As a direct and proximate result of the conduct of defendants TWIN HILL and
11 TAILORED BRANDS; and DOES 1 through 100, inclusive, and each of them, as aforesaid, Plaintiffs
12 were injured and hurt in their health, strength and activity, sustaining injuries to their bodies, and
13 shock and injury to their nervous system and person, all of which said injuries have caused and
14 continue to cause the Plaintiffs great physical, mental and nervous pain and suffering. Plaintiffs are
15 informed and believe and thereupon allege that said injuries will result in some permanent disability,
16 all to their general damages in an amount according to proof pursuant to federal and state law.

17 45. As a direct and proximate result of the conduct of defendants TWIN HILL and
18 TAILORED BRANDS; and DOES 1 through 100, inclusive, and each of them, Plaintiffs have been
19 compelled to employ the services of hospitals, physicians, surgeons, nurses and the like, to care for
20 and treat them, and have incurred hospital, medical, professional and incidental expenses, and
21 Plaintiffs are informed and believe and thereupon allege that by reason of their injuries, Plaintiffs will
22 necessarily incur additional like expenses for an indefinite period of time in the future, the exact
23 amount of which expenses will be stated according to proof pursuant to federal and state law.

24 46. As a direct and proximate result of the conduct of defendants TWIN HILL and
25 TAILORED BRANDS; and DOES 1 through 100, inclusive, and each of them, as aforesaid, Plaintiffs
26 were prevented from attending to their usual occupation, and Plaintiffs are informed and believe and
27 thereupon allege that they will thereby be prevented from attending to their usual occupation for a
28 period of time in the future, and thereby will also sustain a loss of earning capacity, in addition to lost

1 earnings, past, present and future; the exact amount of such losses is unknown to Plaintiffs at this
 2 time, Plaintiffs allege said damages according to proof pursuant to federal and state law.

3 **SECOND CAUSE OF ACTION**

4 **NEGLIGENT PRODUCTS LIABILITY**

5 **(Against all Defendants; and DOES 1 through 100 inclusive)**

6 47. Plaintiffs allege as though fully set forth at length, and incorporate herein by reference,
 7 all of the allegations and statements contained in paragraphs 1 through 46, inclusive, of the General
 8 Allegations and the First Cause of Action.

9 48. Plaintiffs are informed and believe, and thereupon allege, that at all times mentioned
 10 herein, defendants TWIN HILL and TAILORED BRANDS; and DOES 1 through 100, inclusive, and
 11 each of them, were engaged in the business of manufacturing, fabricating, designing, assembling,
 12 distributing, buying, selling, inspecting, testing, analyzing, servicing, repairing, marketing,
 13 warranting, maintaining, modifying, altering, controlling, installing, fitting, entrusting, managing,
 14 advertising, supervising the use of making representations about and/or warning of defects in, or
 15 dangers associated with the use of the said UNIFORMS, including all component parts thereof, and
 16 had a duty to manufacture, fabricate, design, synthesize, assemble, distribute, buy, sell, inspect, test,
 17 analyze, service, repair, market, warrant, maintain, modify, alter, control, install, fit, entrust, manage,
 18 advertise, provide training for the use of, supervise the use of, make representations about and/or warn
 19 of defects in, or dangers associated with the use of, the said product, including all component parts
 20 and chemicals thereof, in a reasonable manner. Defendants knew, or in the exercise of reasonable care
 21 should have known, the UNIFORMS would be used without inspection by consumers and/or
 22 bystanders for defects or dangers.

23 49. Plaintiffs are informed and believe, and thereupon allege, that at all times mentioned
 24 herein, defendants TWIN HILL and TAILORED BRANDS; and DOES 1 through 100, inclusive, and
 25 each of them, breached their above-mentioned duties by negligently, recklessly, and/or carelessly
 26 manufacturing, fabricating, designing, synthesizing, assembling, distributing, buying, selling,
 27 inspecting, testing, analyzing, servicing, repairing, marketing, warranting, maintaining, modifying,
 28 altering, controlling, installing, fitting, entrusting, managing, advertising, supervising and/or failing to

1 supervise the use of, failing to train for the use of, making representations about, warning and/or
2 failing to warn of defects in, or dangers associated with the use of, the UNIFORMS, including all or
3 some component parts thereof, thereby rendering the said product unsafe and dangerous for use by
4 consumers, users and bystanders, which proximately caused the injuries and damages to Plaintiffs, as
5 alleged herein.

6 50. As a direct and proximate result of the conduct of defendants TWIN HILL and
7 TAILORED BRANDS; and DOES 1 through 100, inclusive, and each of them, as aforesaid, Plaintiffs
8 were injured and hurt in their health, strength and activity, sustaining injuries to their bodies, and
9 shock and injury to their nervous systems and persons, all of which said injuries have caused and
10 continue to cause the Plaintiffs great physical, mental and nervous pain and suffering. Plaintiffs are
11 informed and believe and thereupon allege that said injuries will result in some permanent disability,
12 all to their general damages which will be stated according to proof pursuant to federal and state law.

13 51. As a direct and proximate result of the conduct of defendants TWIN HILL and
14 TAILORED BRANDS; and DOES 1 through 100, inclusive, and each of them, Plaintiffs have been
15 compelled to employ the services of hospitals, physicians, surgeons, nurses and the like, to care for
16 and treat them, and have incurred hospital, medical, professional and incidental expenses, and
17 Plaintiffs are informed and believe and thereupon allege that by reason of their injuries, Plaintiffs will
18 necessarily incur additional like expenses for an indefinite period of time in the future, the exact
19 amount of which expenses will be stated according to proof pursuant to federal and state law.

20 52. As a direct and proximate result of the conduct of defendants TWIN HILL and
21 TAILORED BRANDS; and DOES 1 through 100, inclusive, and each of them, as aforesaid, Plaintiffs
22 were prevented from attending to their usual occupation, and Plaintiffs are informed and believe and
23 thereupon allege that they will thereby be prevented from attending to their usual occupation for a
24 period of time in the future, and thereby will also sustain a loss of earning capacity, in addition to lost
25 earnings, past, present and future; the exact amount of such losses is unknown to Plaintiffs at this
26 time, Plaintiffs allege said damages according to proof pursuant to federal and state law.

27 ///

28 ///

THIRD CAUSE OF ACTION**NEGLIGENCE****(Against All Defendants; and DOES 1 through 100 inclusive)**

53. Plaintiffs reallege as though fully set forth at length, and incorporate herein by reference, all of the allegations and statements contained in paragraphs 1 through 53, inclusive, of the General Allegations as well as the First and Second Causes of Action.

54. Plaintiffs are informed and believe, and thereupon allege, that at all times mentioned herein, defendants TWIN HILL and TAILORED BRANDS; and DOES 1 through 100, inclusive, and each of them, were engaged in the business of manufacturing, fabricating, designing, assembling and producing the UNIFORMS, as well as inspecting, selling, distributing, servicing, marketing, warranting, altering, controlling, fitting, entrusting, managing, advertising, buying and trading the UNIFORMS, including using various chemicals to manufacture and make the UNIFORMS, and had a duty to provide proper training, supervision and warning for their employees, any independent contractors, bystanders or anyone else expected to wear and/or be around the UNIFORMS to ensure safe chemicals were being utilized in the manufacturing, production and/or distribution of the UNIFORMS. Defendants further had a duty to warn of any defects in, or dangers associated with the use of the said UNIFORMS and/or any component parts thereof, in a reasonable manner. Defendants also had a duty not to alter or modify the UNIFORMS so as to create a dangerous product.

55. Plaintiffs are informed and believe, and thereupon allege, that at all times mentioned herein, defendants TWIN HILL and TAILORED BRANDS; and DOES 1 through 100, inclusive, and each of them, breached their above-mentioned duties by negligently, recklessly, and/or carelessly failing to properly train, supervise and warn their employees, independent contractors and/or other foreseeable users of the risks associated with the use of the UNIFORMS.

56. Plaintiffs are informed and believe, and thereupon further allege, that at all times mentioned herein, defendants TWIN HILL and TAILORED BRANDS; and DOES 1 through 100, inclusive, and each of them, breached their above-mentioned duties by negligently, recklessly, and/or carelessly altering, removing, modifying and/or replacing component parts of the UNIFORMS,

1 including altering, removing, modifying and or replacing safety guards and/or inspections thereby
 2 rendering the UNIFORMS dangerous for use by users and/or bystanders including Plaintiffs.

3 57. As a direct and proximate result of the conduct of defendants TWIN HILL and
 4 TAILORED BRANDS; and DOES 1 through 100, inclusive, and each of them, as aforesaid, Plaintiffs
 5 were injured and hurt in their health, strength and activity, sustaining injuries to their bodies, and
 6 shock and injury to their nervous systems and persons, all of which said injuries have caused and
 7 continue to cause Plaintiffs great physical, mental and nervous pain and suffering. Plaintiffs are
 8 informed and believe and thereupon allege that said injuries will result in some permanent disability,
 9 all to their general damages which will be stated according to proof pursuant to federal and state law.

10 58. As a direct and proximate result of the conduct of defendants TWIN HILL and
 11 TAILORED BRANDS; and DOES 1 through 100, inclusive, and each of them, Plaintiffs have been
 12 compelled to employ the services of hospitals, physicians, surgeons, nurses and the like, to care for
 13 and treat them, and have incurred hospital, medical, professional and incidental expenses, and
 14 Plaintiffs are informed and believe and thereupon allege that by reason of their injuries, Plaintiffs will
 15 necessarily incur additional like expenses for an indefinite period of time in the future, the exact
 16 amount of which expenses will be stated according to proof pursuant to federal and state law.

17 59. As a direct and proximate result of the conduct of defendants TWIN HILL and
 18 TAILORED BRANDS; and DOES 1 through 100, inclusive, and each of them, as aforesaid, Plaintiffs
 19 were prevented from attending to their usual occupation, and Plaintiffs are informed and believe and
 20 thereupon allege that they will thereby be prevented from attending to their usual occupation for a
 21 period of time in the future, and thereby will also sustain a loss of earning capacity, in addition to lost
 22 earnings, past, present and future; the exact amount of such losses is unknown to Plaintiffs at this
 23 time, Plaintiffs alleges said damages according to proof pursuant to federal and state law.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiffs pray judgment against defendants, and each of them, as follows:

26 FOR THE FIRST CAUSE OF ACTION FOR STRICT PRODUCTS LIABILITY:

- 27 1. For general damages according to proof;
- 28 2. For hospital, medical, professional and incidental expenses, according to proof;

BALABAN & SPIELBERGER LLP
11999 SAN VICENTE BOULEVARD, SUITE 345
LOS ANGELES, CALIFORNIA 90049

3. For loss of earnings and loss of earning capacity, according to proof;
4. For prejudgment interest, according to proof;
5. For punitive and exemplary damages;
6. For costs of suit incurred herein; and
7. For such other and further relief as the court may deem just and proper.

FOR THE SECOND AND THIRD CAUSES OF ACTION FOR NEGLIGENT PRODUCTS

LIABILITY AND NEGLIGENCE:

1. For general damages according to proof;
2. For hospital, medical, professional and incidental expenses, according to proof;
3. For loss of earnings and loss of earning capacity, according to proof;
4. For prejudgment interest, according to proof;
5. For costs of suit incurred herein; and
6. For such other and further relief as the court may deem just and proper.

DATED: August 16, 2018

BALABAN & SPIELBERGER, LLP

/s/Andrew J. Spielberger
Daniel K. Balaban, Esq.
Andrew J. Spielberger, Esq.
Vanessa L. Loftus-Brewer, Esq.
Kahren Harutyunyan, Esq.
Attorneys for Plaintiffs

DATED: August 16, 2018

KABATECK BROWN KELLNER, LLP

/s/Anastasia K. Mazzella
Brian S. Kabateck, Esq.
Anastasia K. Mazzella, Esq.
Attorneys for Plaintiffs

BALABAN & SPIELBERGER LLP
11999 SAN VICENTE BOULEVARD, SUITE 345
LOS ANGELES, CALIFORNIA 90049

DEMAND FOR JURY TRIAL

Plaintiffs HEATHER POOLE and the Plaintiffs listed herein, also listed in Exhibit 1, attached hereto, hereby demand a jury trial.

DATED: August 16, 2018

BALABAN & SPIELBERGER, LLP

/s/Andrew J. Spielberger

Daniel K. Balaban, Esq.
Andrew J. Spielberger, Esq.
Vanessa L. Loftus-Brewer, Esq.
Attorneys for Plaintiffs

DATED: August 16, 2018

KABATECK BROWN KELLNER LLP

/s/Anastasia K. Mazzella

Brian S. Kabateck, Esq.
Anastasia K. Mazzella, Esq.
Attorneys for Plaintiffs

ATTORNEY SIGNATURE ATTESTATION

I, Anastasia K. Mazzella, am the CM/ECF user whose ID and password are being used to file this amended pleading. Pursuant to Local Civil Rule 5-1(i)(3), I hereby attest that Andrew J. Spielberger on whose behalf this filing is jointly submitted, has concurred in this filing. I hereby attest that I have on file all holographic signatures corresponding to any signatures indicated by a conformed signature (/S/) within this e-filed document.

DATED: August 16, 2018

KABATECK BROWN KELLNER, LLP

/s/Anastasia K. Mazzella

Anastasia K. Mazzella, Esq.
Attorneys for Plaintiffs